

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEBRASKA**

EXMARK MANUFACTURING CO.,  
INC.,

Plaintiff,

v.

BRIGGS & STRATTON POWER  
PRODUCTS GROUP, LLC and  
SCHILLER GROUNDS CARE, INC.,

Defendant.

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Case No. 10-CV-00187

**INDEX OF EVIDENCE IN SUPPORT OF MOTION FOR PROTECTIVE  
ORDER PRECLUDING DEPOSITION OF ATTORNEY DENNIS  
THOMTE**

Plaintiff Exmark Manufacturing Co., Inc. submits the following evidence in support of its Motion for Protective Order Precluding Deposition of Attorney Dennis Thomte:

<u>INDEX</u>	<u>DESCRIPTION</u>
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| A. | Declaration of Matthew J. Goggin (Goggin Decl.);   |
| 1. | Goggin Decl. Ex. 1, U.S. Patent 5,987,863 (“the ‘863 patent”),<br>entitled “Lawn Mower Having Flow Baffles and Removable<br>Mulching Baffles”; |
| 2. | Goggin Decl. Ex. 2, Notice of Deposition of Dennis Thomte dated<br>December 21, 2010;  |

3. Goggin Decl. Ex. 3, letter from Exmark's counsel J. Derek Vandenburg to Schiller's counsel Kadie M. Jelenchick dated January 3, 2011;
4. Goggin Decl. Ex. 4, letter from Schiller's counsel Kadie M. Jelenchick to Exmark's counsel J. Derek Vandenburg dated January 10, 2011;
5. Goggin Decl. Ex. 5, detailed information from the website of the United States Patent and Trademark Office, [www.uspto.gov](http://www.uspto.gov), relating to patent attorney Dennis L. Thomte;
6. Goggin Decl. Ex. 6, U.S. Patent 5,845,475 ("the '475 patent"), entitled "Lawn Mower Having Flow Control Baffles and Removable Mulching Baffles";
7. Goggin Decl. Ex. 7, Petition to Make Special Under 37 CFR 1.102(d) filed with the PTO seeking expedited prosecution of the '475 patent due to infringement of the pending claims;
8. Goggin Decl. Ex. 8, Petition to Make Special Under 37 CFR 1.102(d) filed with the PTO seeking expedited prosecution of the '863 patent due to infringement of the pending claims; and

9. Goggin Decl. Ex. 9, Protective Order entered by this Court, on March 8, 2002, precluding the deposition of Dennis Thomte in relation to the '863 patent, in *Toro Co. v Scag Power Equipment, Inc.*, No. 8:01CV279 (D. Neb. Mar. 8, 2002).

Dated: January 28, 2011

s/Matthew J. Goggin

J.Derek Vandenburg (admitted *pro hac vice*)

Matthew J. Goggin (admitted *pro hac vice*)

Joseph W. Winkels (admitted *pro hac vice*)

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**CERTIFICATE OF SERVICE**

I hereby certify that on January 28, 2011, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all counsel of record as follows:

Andre R. Barry	Kadie M. Jelenchick
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s/ Matthew J. Goggin  
Matthew J. Goggin